

Formal Action # 99-37 II

IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE

STATE OF TENNESSEE,
Plaintiff,

v.

THE BASKET CONNECTION, INC.,
an Oregon corporation,
Respondent.

PETITION

John Knox Walkup, Attorney General and Reporter for the State of Tennessee, ("Attorney General"), files this Petition pursuant to Tenn. Code Ann. § 47-18-107 of the Tennessee Consumer Protection Act of 1977 ("the Act"), and would respectfully show the Court as follows:

1. The Division of Consumer Affairs of the Tennessee Department of Insurance and Commerce ("the Division") and the Attorney General, acting pursuant to the Act, have investigated the acts and practices of The Basket Connection, Inc., an Oregon corporation, ("Respondent"). Upon completion of such investigation, the Division has determined that certain of Respondent's acts and practices, more specifically described in Paragraph 2 of this Petition, constitute unfair and deceptive acts or practices affecting the conduct of trade or commerce in the State of Tennessee in violation of Tenn. Code Ann. § 47-18-104(a), and further that such acts and practices constitute violations of Tenn. Code Ann. §§ 47-18-104(a), (b)(5) and (b)(27).

2. Based upon their investigation of Respondent, the Division and the Attorney General allege the following:

a. The Respondent is in the business of selling a franchise or business opportunity which allows the franchisee to sell baskets in the Nashville area.

b. On October 26 and October 27, 1996, the Respondent, its agent, representative, manager, or other person under its control and direction was a vendor at the franchise show/exhibition which was held at the Nashville Convention Center in Nashville, Tennessee.

c. On October 27, 1996, employees of the Attorney General's Office, acting as "test shoppers" attended the franchise and business opportunity show/exhibition referred to above for the purpose of evaluating the vendor's compliance with the Tennessee Consumer Protection Act, including, but not limited to, providing documents substantiating earnings claims pursuant to Federal Trade Commission's Franchise and Business Opportunity Ventures Trade Rule.

d. The investigators went to the booth operated by the Respondent and were told that the purchase price of the franchise was Four Thousand Nine Hundred Ninety Five Dollars (\$4,995.00) This price included seventy to eighty (70-80) baskets. Additional baskets would be bought at cost.

e. The Respondent unequivocally stated that a franchise purchaser will earn at least One Thousand Eight Hundred Dollars (\$1, 800.00) per month.

f. Despite repeated and direct requests, the Respondent did not provide any documentation which would substantiate any of the claims made during the presentation for this franchise/business opportunity, including the claim regarding potential and expected income.

g. Respondent's conduct constitutes unfair and deceptive acts or practices.

3. Respondent denies any wrongdoing.

4. Upon completion of its investigation, the Division requested the Attorney General to negotiate, and if possible to accept, an Assurance of Voluntary Compliance in accordance with the provisions set forth in Tenn. Code Ann. § 47-18-107.

5. The Attorney General entered into negotiations with Respondent and the parties have agreed to, and the Division has approved, the attached Assurance of Voluntary Compliance.

6. In accordance with the provisions of Tenn. Code Ann. § 47-18-107(c), the execution, delivery and filing of the Assurance does not constitute an admission of prior violation of the Act.

7. The Division, the Attorney General, and the Respondent, the parties who are primarily interested in the matters set forth in Paragraph 2 hereof, have jointly agreed to the Assurance of Voluntary Compliance

and join in its filing.

PREMISES CONSIDERED, Petitioner prays

1. That this Petition be filed without cost bond pursuant to the provisions of Tenn. Code Ann. §§ 20-13-101 and 47-18-116.
2. That the Assurance of Voluntary Compliance be approved and filed in accordance with the provisions of the Act.
3. That costs be taxed to Respondent.